

In the United States Court of Federal Claims

Sub-Master Docket No. 17-9001L

(Filed: February 10, 2022)

IN RE UPSTREAM ADDICKS AND
BARKER (TEXAS) FLOOD-
CONTROL RESERVOIRS

THIS DOCUMENT APPLIES TO:

ALL UPSTREAM CASES

ORDER

Pending before the court is the Remaining Master Complaint Plaintiffs' Motion for Class Certification ("Remaining Pls. Mot."), ECF No. 420, filed December 17, 2021, which has been fully briefed. *See* Pls.' Resp., ECF No. 425; Def.'s Opp'n, ECF No. 428; Remaining Pls.' Reply, ECF 431.

This motion is essentially a reprise of plaintiffs' earlier motion for class certification, denied on December 15, 2021, *see In re Upstream Addicks & Barker (Texas) Flood-Control Reservoirs*, ___ Fed. Cl. ___, 2021 WL 5915138 (Dec. 15, 2021), ECF No. 417. The court denied a motion for reconsideration of that decision on December 17, 2021, *see* ECF No. 419.

The current motion raises no persuasive grounds for revisiting class certification. All of the reasons for the denial of the first such motion appertain to the extant motion. The bellwether mode of proceeding has been successful thus far, liability has been found after a trial held two years ago, and trial of just compensation for certain bellwether claims will be scheduled to proceed within a few months. Certification of a class of plaintiffs at this late juncture would be inappropriate and unfair.

CONCLUSION

For the reasons stated, the Remaining Master Complaint Plaintiffs' Motion for Class Certification, ECF No. 420, is DENIED.

It is so **ORDERED**.

s/ Charles F. Lettow

Charles F. Lettow

Senior Judge